

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MICHELLE BOLZE)	
Claimant)	
VS.)	
)	Docket No. 213,738
STATE OF KANSAS)	
Respondent)	
Self-Insured)	

ORDER

Respondent requested review of the preliminary hearing Order dated October 4, 1996, entered by Administrative Law Judge Bryce D. Benedict.

ISSUES

The Administrative Law Judge granted claimant's request for preliminary hearing benefits. Respondent asked the Appeals Board to review the issue whether claimant sustained personal injury by accident arising out of and in the course of employment with the respondent. That is the only issue on this review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds as follows:

The Order entered by the Administrative Law Judge should be affirmed.

Claimant alleges that she injured her right knee while working for the respondent on April 15, 1996. Respondent argues that claimant injured her knee before that date and, therefore, that claimant did not injure the knee at work as alleged.

The Appeals Board agrees with the Administrative Law Judge's conclusion that claimant had right knee symptoms immediately before the April 15, 1996, work-related incident when claimant felt a pop and the knee gave way. Also, the Appeals Board agrees with the Judge's analysis that the April 15, 1996, incident either injured or aggravated the knee which would constitute a compensable claim. Because of the circumstances surrounding the alleged accident, this claim hinges upon claimant's credibility. Because the Administrative Law Judge had the opportunity to observe claimant testify and assess her demeanor, the Appeals Board, in this instance, gives some deference to the Judge's implicit finding that claimant was credible and trustworthy.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated October 4, 1996, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1996.

BOARD MEMBER

c: Paul D. Post, Topeka, KS
Jeff K. Cooper, Topeka, KS
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Director